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MICHAEL RODAK, JR., CL

NO. 79-1764

IN THE

SUPREME COURT OF THE UNITED STATES

SEPTEMBER TERM, 1980

TEXAS DEPARTMENT OF COMMUNITY AFFAIRS,
Petitioner

vs.

JOYCE ANN BURDINE,
Respondent

JOINT APPENDIX

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TABLE OF CONTENTS

Part of Record **Pages**

Trial Transcript pages:

3 1

4 1

5 2

6 2

7 3

9 4

11 4

12 5

13 6

28 6

52 7

53 8

54 8

55 9

57 10

58 10

59 11

60 12

61 12

62 13

63 14

64 14

65 15
66 16
73 16
77 17
79 17
80 17
81 18
83 18
84 19
87 19
89 19
90 20
91 21
92 21
94 22
95 23
96 23
97 24
98 24
99 25
100 26
101 26
105 27
107 27
109 28

116 29

121 29

Plaintiff's Exhibits:

IIb 31

IIf 33

IIs 37

IIt 37

XII 41

XIV 42

XVI 45

Defendant's Exhibits:

A 48

C 50

F 53

I 55

(3)

* * *

Q. Okay. How are you employed at this time?

A. I'm employed as a Field Services Coordinator at the Texas Department of Community Affairs in the Manpower Services Division.

Q. Okay. And when did you first begin your employment with them?

A. I first began my employment January the 15th of 1972, as the Data Analyst for the Public Service Careers Program for the Texas Department of Community Affairs.

Q. Okay. Would you explain to the Court what the Public Service Careers Program is.

A. Okay. The Texas Public Service Careers Program is a program whereby federal funds are used to contract with State agencies. The State agencies provide unsubsidized jobs that are budgeted positions for unemployed people, and also the money is used to upgrade present employees who are in low-paying, low-skilled jobs. And the money is primarily used

(4)

for training those people on the job.

Q. Now, subsequent to your first date of employment, January the 15th of 1972, did you later receive a promotion?

A. Yes, I did. I was promoted in July of 1972 to the position of Job Design Coordinator.

Q. And what did you do in that position?

A. I continued most of the duties that I had as the Data Analyst, since most of the duties that I had assumed on that job were not in the job description but were in addition to what was in that job description. That was, I assisted in the negotiation of proposal development, in contract development, I assisted the director whenever we met with heads of agencies and I develop contracts. I also was responsible for amending the contract with the Department of Labor. I went to the Department of Labor, in Dallas, and took it, explained it, corrected it for funding. I kept records. I made monthly reports to the Department of

Labor and I worked up training plans for the participants who were employed in the State agencies in the programs.

Q. Who, at that time, subsequent to July the 1st of 1972, was your supervisor in the PSC Division?

A. Mack Nealey.

(5)

Q. And can you tell the Court whether on or about October the 2nd of 1972, were you given any kind of specific job duties other than what you had had in the PSC Division?

A. Yes, I was. Mr. Nealey had told us that he was going to resign in approximately two weeks and that he would be out of the office a lot of that time, and he designated me to be in charge of the office to represent the Public Service Careers office at meetings to administer the program, and to sign leave slips for the State office staff and generally to run the program from the State office.

Q. Would you identify what has been marked as Plaintiff's Exhibit 2-B.

A. Yes. This is that memo.

MR. ALLEN: No objection.

(Said instrument was admitted in evi-
(dence as Plaintiff's Exhibit No. 2-B.

Q. (By Mr. Gill) Subsequent to that time, which was October the 2nd of '72, did you assume that authority that was given to you?

A. Yes, I did.

Q. Now, on or around that time, were you made aware of any change in the PSC Division as to who the acting

(6)

director of that program would be?

A. Yes, I was. Shortly after that, around October the 16th, shortly after Mr. Nealey left, we were notified in the State office that John Malone was made the acting director of the Public Service Careers Project.

Q. Okay. Would you identify what has been marked as Plaintiff's Exhibit 2-C.

A. Yes. This is the memo that designated that.

Q. Did Mr. Nealey, to your knowledge, in fact, resign from the PSC?

A. Yes, he did.

Q. Okay. Now, subsequent to his resignation, did you—who was your boss then?

A. John Malone was my supervisor at that time.

Q. Okay. Did you receive any specific instructions from Mr. Malone concerning your job duties in the PSC Division?

A. Well, shortly after he was designated as acting director, he passed a memo on to me and to the State office staff designating that I administrate and be responsible for the State office staff and the duties of the Public Service Careers Project in that office.

Q. Would you identify what has been marked as Plaintiff's Exhibit 2-C.

(7)

A. Yes. This is that memo.

Q. And, 2-E is what that is, I'm sorry. Would you explain to the Court what sort of activities you did in that job after you had received those instructions from Mr. Malone.

A. I coordinated all of the administrative functions of the office, I supervised the staff, I scheduled travel statewide, I visited the statewide projects where we had contracts and set up monitoring schedules for the contracts, I signed time and attendance sheets, and all of the normal office routine that you do with the staff.

Q. What contact, if any, during this period of time did you have with Mr. Malone, himself?

A. Very little, actually. We had approximately two staff meetings within a period of about six months, and I requested one of those. The rest of the time whenever I needed help I would call and request assistance or request answers to questions that I had, and he would respond by telephone. But we rarely ever saw him.

Q. Would you say that, in effect, you were totally in charge of that division?

A. Yes, I would say that I was.

Q. Is one of the things that you did while you were . . .
* * *

(9)

A. Yes.

Q. And Marion Kirkland?

A. That's correct.

Q. Would you identify what has been marked as Plaintiff's Exhibit 7.

A. Yes. These are time and attendance reports with my signature on several of them.

Q. Now, concerning these time and attendance records, I believe your signature is not on all of these, is that correct?

A. That's correct.

Q. Now, your—I believe, for example, here is one that is marked November of '72, in which you have signed in the space marked "Supervisor's Signature," is that correct?

A. That's correct.

Q. And some of the others—That is for the employee, Allen Walz.

A. Yes.

Q. Some of the others you have marked—or have been signed, for instance, by John Malone in September of '72, is that correct, for Allen Walz?

A. Yes, it is.

Q. And those signatures reflect the supervisor of that project or program at that time.
* * *

(11)

A. No, I can't.

Q. Now, did you at any time while you were holding this position, from November the 8th of 1972 until April 1st or so of 1973, receive any kind of pay increase?

A. No, I did not.

Q. Did you receive any kind of a promotion?

A. No, I didn't.

Q. Did you at any time request either a pay increase or a promotion?

A. Yes, I did.

Q. Can you say when you did that?

A. I applied for the Director's position on December the 15th of 1972. I discussed it verbally with John Malone and he encouraged me to apply for it, and he told me that as far as he was concerned he would approve it and that the ultimate approval would have to come from the Executive Director of the agency, who was Mr. B. R. Fuller; and he said that he would talk to Mr. Fuller about it and that was the only thing we needed to do at that time. Later I reminded him of it again and asked him if I needed to do anything in writing, there was a contract modification that I was working on, and he suggested that I present it the same way that it was presented

(12)

whenever he was the Director of the program. I asked him how that should be done and he told me to insert my resumé in it and to include the Director's—the PSC Director's position in the budget, told me what salary to figure to budget in for and everything. And he said that that's the way he would present it to Mr. Fuller for his approval.

Q. Did you do that?

A. Yes, I did.

Q. Did you ever hear any response concerning that?

A. None whatsoever.

Q. Would you identify what has been marked as Plaintiff's Exhibit 2-K.

A. Okay. This is the memo that I wrote to Mr. Fuller calling to his attention certain items and the fact that I had applied for the position and had no response on that, and I was bringing it to his attention.

Q. I'm going to read from the first part of the third paragraph, and correct me if I'm wrong: "On submission of the last modification of the PSC contract, December 15, 1972, I applied for the position of Project Director of PSC. John Malone verbalized his approval but stated that he would need to 'clear it with Mr. Fuller.' As of November 8th of

(13)

1972, I have been working in the capacity of Project Coordinator without benefit of a salary increase. My salary is the third highest in the State PSC office; the two other employees making higher salaries than I earn. I am available to discuss this matter and other PSC concerns with you at your convenience." Is that correct?

A. That is correct.

Q. Did you ever get any response from this memo?

A. None whatsoever.

Q. Okay. Now, did you know—Would you identify what has been marked as Plaintiff's Exhibit 2-D.

A. Okay. This is the Personnel Action Form for Mack Nealey.

Q. And it reflects the date of his resignation.

A. Yes.

Q. Okay. Is it correct that this reflects Mr. Nealey's salary at the time of his resignation to be $1,179.00 per month?

A. That is correct.

Q. And you were being paid at that time at a rate of pay of what?

A. It was $800 and something a month; I'm not exactly sure how much it was. I believe it was $848.00.

Q. Would you identify what has been marked as Plaintiff's . . .

* * *

(28)

. . . any other job there that you would have considered taking.

A. I would have considered the Area Coordinator position that was given to Allen Walz.

Q. And Allen Walz was a male?

A. Yes, he was.

Q. And what—Prior to your termination, what was his relative position in the PSC division as compared to yours?

A. He was the Data Analysis in the Public Service Careers project, and I trained him for that position.

Q. Did you supervise him?

A. Yes, I did.

Q. As far as seniority, what was your rate of seniority to his?

A. I had seniority with the agency of about a year. I had five years of experience in manpower that he did not have. He had the one year in manpower that he had been there.

Q. Is Mr. Walz one of the persons on the earlier exhibit, that was the time and attendance sheets, that you had approved his time and attendance sheet?

A. That is correct.

Q. And you did that as his supervisor?

* * *

(52)

. . . by the Court first duly sworn, testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. GILL:

Q. Would you state your name, please.

A. Julius Gordon, Jr.

Q. And what is your occupation?

A. I'm the Associate Dean of Students at the University of Houston at Houston.

Q. Okay. Do you know the Plaintiff, Joyce Burdine?

A. I do.

Q. How are you acquainted with her?

A. I'm acquainted with her from my employment and her employment with the Public Service Careers program. I was the Coordinator for the University of Houston's program for two years.

A. Is that what is referred to as an "out-station staff person?"

A. Yes, it is.

Q. And you worked in conjunction with the central office in Austin, in terms of administering the program?

A. I did.

Q. And what—Can you tell the Court, briefly, what the purpose of the program was?

A. The program was geared to—not only for the University but for the entire state—was the

(53)

upgrading of staff members at the particular site, for the bringing in of the minority of women into the program and for the elimination of barriers which would have kept people from getting employed by them not having a proper education or what have you. If I may, I'll give an example of this: One of our, what we call "substatatory staff," an employee which we have at the University of Houston who was classified as a clerk typist. However, what she actually did was grade the work of optometry students and which this was quite difficult for her. And working through the program we got her the proper training, the course needed, she was not a college graduate, and she tripled her salary and she was made an Optician.

Q. Okay. And for what period of time did you work in the PSC program?

A. Two years. From its onset. I believe it was August of '72—I'm sorry—late '72.

Q. During that period of time, particularly from January of '72, the date of Ms. Burdine's employment, through the time that you left, did you have close contact with her as far as your job was concerned?

A. I did.

Q. And what did your contact and her's—

(54)

A. Well, in her—She held various positions during this particular time, one was that of a Data Analysis, I believe, and the other was as a trainer. She assisted us with the modification of contracts, the evaluation of our work in which we were doing and the general on-sight visitation which was required of the staff from the State office.

Q. Did you have—Were you able, during that period of time, to closely observe her work?

A. I was.

Q. And what did you observe as far as her work?

A. I observed her as being a very positive individual and one who could do the job.

Q. Could you give some specific examples?

A. Why, yes. I have some background working with the Department of Labor, even prior to this particular program, and I know the many tons of paper work which one must go through in terms of dealing with modification of contracts. This she was able to do quite easily. She was able to assist us in getting those things past, which we probably would have ran into a little bit of difficulty. She also assisted us in getting reimbursed for our costs incurred while training individuals.

Q. Would you say that based on your personal observations

(55)

of her work performance that she was qualified or not qualified to be the Project Director of that division?

A. I would not hesitate to say that she was qualified to be the Director. She was a person which me and my staff called upon for assistance from the office.

MR. GILL: Pass the witness.

CROSS EXAMINATION

QUESTIONS BY MR. ALLEN:

Q. Mr. Gordon, did you ever work with her in her office here in Austin?

A. We had a few occasions to come to Austin. Like on the occasion that I did we had several training-type of meetings. Most of the time it was on-sight and by communication through the mail and by phone—mostly done on-sight.

Q. But did you ever observe her in her position in the PSC program there, in her work here in Austin?

A. You mean her—physically located in Austin?

Q. Yes, sir.

A. I guess I could say the times that I was here, I observed her going about her work daily when we were here for our business. Of course, we would be her business.

Q. But you would be conferring with her on these . . .

* * *

(57)

Q. Do you know the relationship between Mr. Fuller and Ms. Burdine?

A. With Mr. Fuller and Ms. Burdine? No, I didn't.

MR. ALLEN: Pass the witness.

MR. GILL: No further questions. Your Honor, I call Mack Nealey.

MACK NEALEY,

a witness produced by the Plaintiff, having been by the Court first duly sworn, testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. GILL:

Q. Would you state your name, please.

A. My name is Mack D. Nealey.

Q. And what is your present occupation?

A. I'm a Center Coordinator of the Kealing Learning Center, which is part of the Austin Independent School District.

Q. Do you know the Plaintiff, Joyce Burdine?

A. I do.

Q. And how do you know her?

A. I recruited and hired her in the position of Data Analyst for the Texas Department of Community Affairs.

Q. Okay. When were you employed at the Texas Department

(58)

of Community Affairs?

A. Approximately from July, 1970 to October, 1972.

Q. And what was your position in that?

A. Initially, I performed the duties as Job Design Coordinator and later I received an appointment as Acting Project Director of the Texas Department—Public Service Careers program, and later as a permanent Project Director of the Texas Public Service Careers program.

Q. Would you identify what has been marked as Plaintiff's Exhibit 11.

A. Yes. This is a Personnel Action Form accepting my promotion to a permanent Director of the Public Service Careers program.

Q. And that's dated January 15, 1972, is that correct?

A. Yes.

Q. Okay. Now, in your—You say that you recruited Joyce Burdine for that job; what brought that on?

A. I had talked with numerous individuals in the Austin area concerning appointment of someone for that position, and Joyce Burdine had been highly recommended for the position. And, after numerous interviews and contacts with her, I had no doubt as to her ability to perform this position. She demonstrated to me during the interviews the

necessary—in communicating with her—the necessary knowledge, skills and abilities required for this job. And, that is primarily the reason that I chose her for this position.

Q. Okay. After she was recruited and hired, did you have occasion then to observe her performance in this?

A. I did.

Q. Would you explain to the Court how you observed her performance.

A. Well, basically as a Project Director I have been delegated the authority for the administration and implementation and operation and coordination of the—as well as supervision—of personnel of the Service Careers program. I supervised Ms. Burdine on a daily basis. She demonstrated over and beyond the necessary knowledge of skills and ability as a Data Analyst. And during this time I assigned her additional duties which were not stipulated in her job description, and she performed those without any difficulty. And I also gave her additional responsibilities to coordinate many of our field activities with the sub-contracting agencies around the state of Texas, and she performed those without any difficulty.

(60)

And during my visits to those cities and to those sub-contracting agencies, I received very favorable comments concerning her performance during those visits.

Q. Did you actually, at one point, give her authority while you were out of the office, at times when you were out of the office, to be in charge of the office?

A. I did.

Q. What, based on your personal observations of Ms. Burdine's performance, was your opinion as to her ability and qualifications to have the job as Project Director whenever you resigned?

A. I have no difficulty in recommending to her to initiate the proceedings for this position. I also communicated with John Malone concerning the possibility of appointing—consideration of appointing Joyce Burdine for this position.

Q. What was your conversation with Mr. Malone?

A. Basically, I considered her as sort of heir apparent for the position since she had demonstrated, beyond a shadow of a doubt, the ability to perform those duties.

Q. Did you recommend to John Malone that she be made the Project Director?

(61)

A. Yes, I did.

Q. And what was his reaction?

A. He agreed with me that she did possess those knowledge of skills and abilities in the job description. We did not talk at length and, of course, he said he would pursue the matter further with Ms. Burdine. Of course, after my departure from Austin I had no further knowledge as to what actually took place concerning that.

MR. GILL: Pass the witness.

CROSS EXAMINATION

QUESTIONS BY MR. ALLEN:

Q. Mr. Nealey, when did you depart from Austin?

A. Approximately in October of 1972.

Q. October of '72. And you're not aware, or do not have any knowledge, of the difficulties that the PSC project was having with the Department of Labor—

A. No, I did not have any—

Q. —that resulted in the Department of Labor's determination that the project should be terminated?

A. None that I could intelligently speak of. Of course, by rumor—

Q. You have no actual knowledge of this?

A. No actual knowledge whatsoever.

(62)

MR. ALLEN: No further questions.

MR. GILL: Delores Giles.

DELORES GILES,

a witness produced by the Plaintiff, having been by the Court first duly sworn, testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. GILL:

Q. Would you state your name, please.

A. Delores Giles.

Q. And what is your occupation?

A. Record Specialist.

Q. For where?

A. Texas Department of Community Affairs, Manpower Division.

Q. Okay. When did you become employed with the TDCA?

A. The Public Service Careers—I started first with the Public Service Careers—which was in 1970, July the 16th.

Q. Okay. And were you there at the time that Joyce Burdine was hired?

A. Yes, I was.

Q. Who was the Director at that time?

A. When I first started it was John Malone.

Q. Okay. And later, Mack Nealey took over?

(63)

A. Right.

Q. Now, during this period that we've discussed, between November the 8th of 1972 and April the 1st of 1973, were you employed in the same office with Joyce Burdine at that time?

A. Yes, I was.

Q. And what was your job at that time?

A. Clerk Typist II.

Q. Okay. Were you in a position to observe what was happening in the office at that time?

A. Yes. We were all a little excited and worried about our job positions, because it was a rumor that the program may not be extended.

Q. Now, after the time that Mack Nealey left, which was on November the 8th of 1972, what was your understanding, as an employee there, as to who was in charge of the office?

A. Ms. Burdine was in charge.

Q. What kind of things did she do that would show that she was in charge?

A. The regular duties that a supervisor or Project Director would do. She checked with the clerical position to see if her job was done, did she have anything to go out. At that time I was also keeping the supplies, so she would check and see if we

(64)

needed any supplies and things like that.

Q. Okay. Did she approve time and attendance sheets?

A. Yes, she did.

Q. Vacations?

A. Yes.

Q. And she approved all the letters and correspondence that went out?

A. Right.

Q. Based on your observations of her during that period of time, can you say in your opinion as to what kind of a job she was doing?

A. A great job. I think everybody got along with her.

Q. Had you heard or did you know who would be—Whenever you found out that the program would not be terminated but would be refunded, did you know who was going to be the new Project Director?

A. At first we didn't. Nobody knew anything, to be honest.

Q. And then later, what did you find out?

A. Later, when we found out that we were going to move, I think John came over and told us that we were moving into the new building, which was located 611 South Congress. That's when we found out that we would have a new Project Director out there.

Q. And, then, when did you find out who the Project

(65)

Director was?

A. When we moved over there.

Q. And that was when you found out that Bob Watts was the Project Director.

A. Right.

Q. Were you there during the same period of time that Bob Watts was employed as a Project Director?

A. That's right.

Q. And is he still in that position right now, to your knowledge?

A. No. PSC is not going on now; it became Manpower.

Q. And his job duties have changed?

A. Yes.

Q. Now, during the time that you were able to observe both Joyce Burdine and Bob Watts, based on your own personal knowledge, can you give an opinion as to the relative job performance of both of them?

A. Well, I would have to say that Ms. Burdine knew more about the program because she's been there longer. And I was there before she came, so I knew—being with the Project Director, I would say that she was more qualified for it.

Q. Had you thought, in fact, that she was going to get that job?

A. I did.

(66)

MR. GILL: Pass the witness.

CROSS EXAMINATION

QUESTIONS BY MR. ALLEN:

Q. Ms. Giles, what is your basis for the analysis that Ms. Burdine was more qualified than Mr. Watts?

A. Sir, I didn't know Mr. Watts, I didn't know his qualifications, but I did know Ms. Burdine because I worked there. And I was in there with Mr. Malone and Mr. Mack Nealey, so I knew what a Project Director had to do. So, I didn't know Mr. Watts.

Q. But you did work under him?

A. No. I said I worked under Mack Nealey and Joyce Burdine and John Malone. I didn't know Mr. Watts at all.

Q. You haven't worked under Mr. Watts?

A. I worked under Mr. Watts after he moved over in April, but I didn't know him at the beginning.

Q. Well, after April, then, when you did work under him, did he appear to do a good job?

A. I guess he did.

Q. But you would have preferred Ms. Burdine?

A. Yes, because I—Yes.

Q. She is a personal friend of yours; isn't she?

A. Not really. She's a personal friend of mine, sure enough. But I did—I think working with . . .

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(73)

Q. All right, sir. Mr. Fuller, you have heard the testimony and you were involved in the problems that the Public Service Careers division was having with the Department of Labor. Now, was the Public Service Careers division a wholly funded project of the Department of Labor?

A. Yes. It was funded by the Department of Labor.

Q. Were there any State funds involved?

A. Not to my knowledge were there any State funds involved. It was all U.S. Department of Labor funds.

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(77)

. . . Now, you can ultimately say this is my responsibility as Executive Director, but since the witness today has testified that she felt that she was running the project, I think that some of these possible deficiencies could be attributed on down to the level of the PSC project, itself. So, for the example of lack of proper documentation of expenditures, payments made on expired contracts, expenditure accruals are not accurate, enrollee certifications are inaccurate, enrollees in the programs who shouldn't be in the program. Now, these are the people who were doing the day-to-day work, and these are things that I think should have been taken care of down at that level.

Q. And Ms. Burdine was on that level?

A. Ms. Burdine and the rest were on that level. So, I had to take this into consideration.

Q. All right, sir.

* * *

(79)

Q. All right, sir. Now, how did you determine that Mr. Watts would be the best qualified person for that Director's job?

A. I interviewed some of the top key people who had been with the agency a long time and asked them to give me names of people; we got those names, looked at the resumés and sifted through them as to who would be the person.

Q. All right, sir. And what were the considerations,—the factual basis considerations, of Mr. Watts that

(80)

you took into account to determine he would be the most appropriate.

A. He was highly recommended. And number two was that he had previous administrative experience. He had advance—he had some advanced degrees in Administration and in Accounting. He had other qualifications that I felt made him qualified. I felt that we had to be completely

objective. In no instance did I feel that personalities or sex or any type of discrimination should be involved in this; that we had to go completely on an objective analysis of a person who could take the program and put it together.

Q. And knowing that DOL had to approve all these people, well, you sifted them over with a fine tooth comb to determine who you thought was best qualified?

A. Well, I knew that I had to submit a person that would be acceptable to D. of L.

Q. All right, sir. And what reorganization plan did you come up with, then, besides Mr. Watts as being Project Director?

A. Well, then the reorganization plan came up in conjunction with how they—We worked with Watts, and all of us worked with some of the D. of L.

(81)

representatives as to the contracts that were going to be modified or the training that was going to be eliminated and the type of people that we would need.

Q. All right, sir. And how was the decision made to promote Mr. Allen Walz?

A. It was based on, I felt, his qualifications. I felt that he was qualified to do that, and it was approved by D. of L.

Q. All right, sir. You say "his qualifications." Now, do you have a resumé or something on him to—

A. I don't have it with me, I don't think. I may have it with me. Allen Walz had previous experience. He was recommended by the people who he had worked with in the field and he had been recommended by the people who were—that I was depending on to give me some names of people who should be put into positions of added responsibility.

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(83)

Q. All right, sir. Now, Mr. Fuller, you have made the decision that Ms. Burdine would be terminated; on what basis was that decision made?

A. A very hard decision, as it is to terminate anyone.

But it was a decision to—that in my opinion, was based on the best interest of the program because I felt that there had been some concern, there had been some friction within the department—within the PSC program—and I felt that this could be overcome if she were not continued in the program during this traumatic reorganization period.

Q. And that did prove out to be right?

(84)

A. In my opinion it did.

Q. All right, sir. Now, that was also part of DOL's requirement, was it not, that there be a reduction in force?

A. That is correct.

Q. And how many had to be reduced?

A. I've forgotten what the number was, but they specified a number, and it was reduced to their staff—to their level requirement. And it was worked out with the people with D. of L.

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(87)

Q. All right, sir. In the reduction in force, how many others were terminated in the PSC project?

A. I believe—I can't be certain about this. I think there were three, a total of three.

Q. A total of three.

A. I think it was a total of three; it may have been more.

Q. All right. Do you recall the names?

A. Well, Ms. Burdine—Let's see. Kirkland, I believe was, and Caraveo.

Q. All right, sir.

* * *

(89)

* * *

Q. Okay. Now, I believe you testified yesterday, concerning some of the problems in the PSC project that brought on this possible termination of the project and the

communication from the Department of Labor, concerning what changes needed to be made in the negotiations. One of the things you brought out were possible deficiencies in the program, which was based on that letter from Mr. Johnson to yourself, which has been entered as Plaintiff's Exhibit 2-T. Now, was there anything to those deficiencies, I believe there's about 17 of them, that you as Executive Director attributed the blame or the responsibility for to the Plaintiff, Joyce Burdine, and, if so, what were those?

A. Well, I think that what you have here, Counselor, is that you have a list of deficiencies which were brought out through a review by the Department of Labor, and then contingent on that were certain things that the Department of Labor mandated for the continuation of the project. Specifically, I don't understand your question, now. Would you

(90)

Q. Okay. Was there any—are there any of those deficiencies or problems that were listed in that letter concerning the PSC project that you, as Executive Director, attributed to the Plaintiff, Joyce Burdine, as Project Coordinator during that period of time? And, if so, which ones were they?

A. Well, it would be difficult for me to single out things here that I could contribute to "an individual." However, I think that there are certain things in here that would be assumed in the role that Ms. Burdine had under Mr. Malone, as being sort of Coordinator of the project, of lack of communication in the PSC staff, and some of the others that are here. Now, whether or not the communication could be entirely contributed to Ms. Burdine, I can't say. This could be a lack of communication even from my office to that office.

Q. Okay. And so—

A. I would say that there are several here that tie back in. And here, Counselor, I have to rely upon some communications that I had with D. of L. staff that are not documented. These were verbal communications that we had

between us, that indicated that they were dissatisfied with the manner in which the project was being operated, which brought about the

(91)

recommendation number three of curative actions which had to be taken, and that was that there had to be a complete reorganization of the PSC staff.

Q. Okay. Now, I believe that one of the problems that—or one of the recommendations that they made was that a Project Director be named; is that correct?

A. Right. That is correct.

Q. And is it not true that many of the problems in the PSC division at that time could be attributed to the fact that there wasn't a Project Director?

A. That is not unquestioned, and I think that you could make that assumption.

Q. Okay. Now, on the specific thing of lack of communication, which is the only one that you've mentioned, I believe that you testified that you did not attribute that to Ms. Burdine in particular, or Mr. Malone, but it was just a common problem that everyone had; is that correct?

A. I think that you're probably paraphrasing what I said just a little bit. I said that I think that it could have been any one or more of the staff people who were not coordinating with each other. But as the person who was acting under Mr. Malone in a capacity of sort of supervising the staff, I felt that this would be a problem which could be

(92)

contributed to an attempt by Ms. Burdine to effect this type of coordination in this type of communication. And if it could not be accomplished then to call on Mr. Malone and to call on me as the ultimate responsible person—

Q. Was there any specific—Excuse me.

A. —in the coordination.

Q. Was there any specific example of the lack of communication that you can give us that you recall?

A. Not off-hand, no.

Q. And you were aware that Ms. Burdine had filed numerous monthly activity reports?

A. Yes, which were required.

Q. Okay. Now, the complete reorganization that DOL talked about, did anyone specifically from the Department of Labor require you, either in writing—in writing, exactly what they meant by "complete reorganization." Did they say that everyone there was to be terminated or how did you interpret the meaning "complete reorganization?"

A. I took it in its liberal sense. And that is what they were talking about was that they were talking about a complete reorganization. I just took it in its total context, as was put out in here, and took a look at the attending requirements that they . . .

* * *

(94)

Q. Did anyone from the Department of Labor ever tell you—instruct you that they would not approve Joyce Burdine for the job as Project Director if she were named?

A. The Department of Labor only instructed me that I had to get the approval of them for the person who was named as Project Director.

Q. So, no one ever told you that they would not approve her if she were named; they just waited for you to submit the name and they would approve it?

A. I think the Department of Labor waited for me to submit a name to them for approval.

Q. Okay. Now, you mentioned yesterday, too, in your testimony some dissension that was in the project. Is there any dissension that may have existed that you attributed the fault to Joyce Burdine?

A. Well, this is a difficult question to answer as to whether or not the dissension—Dissension between any two individuals—individual "A," individual "B" in a project has to be cleared up if there is to be harmony and good working relationships in that organization. And if, in fact, Ms. Burdine was

(95)

acting as a person under Mr. Malone in trying to coordinate the project then I think it was her responsibility to reconcile any differences which might have existed.

Q. Okay. What, specifically, are you referring to in terms of some dissension?

A. Well, it was just verbal—just by word of mouth—and other things that had come across my desk.

Q. I mean, what specifically should she have done or could she have done that she did not do to clear up any possible dissension?

A. Well, you're asking for an interpretation of an administrative person to clear up something, and I think this is an area where you have to take each individual instance and act on it as that action arises. I think one of the things that probably, if I might revert to, I think, another exhibit that you have introduced, was the fact that there was some indication here when Mr. Malone required that all travel and all contacts with the regional office and other things be cleared through him or through me. And I think that this was an indication that there could have possibly been some indications that there was not harmony in the area.

Q. Well, isn't it correct that the—that all travel

(96)

had to be cleared through him or through you anyway; is that correct?

A. Well, ultimate—Excuse me.

Q. I believe the memorandum of November the 8th, that we've referred to from Mr. Malone, specifically—this was prior to Ms. Burdine becoming the Project Coordinator, specifically limited and did not give her the authority to approve travel. Isn't that something that only a Project Director could do anyway?

A. Well, yes. But ultimately what I did was that I even required that all travel be approved by me, but this was at a later date.

Q. Are you referring specifically, when you mentioned dissension, to anything concerning another employee by

the name of Roberto Caraveo?

A. This was one instance, yes.

Q. Okay. And in what way did you attribute, if any, any fault to Ms. Burdine concerning Roberto Caraveo?

A. Well, in a memorandum to me under date of February 20, 1973, Ms. Burdine recommended that I limit Mr. Caraveo's activities as a result of an alleged charge, which he had which had not come to trial. I had already checked this out with the Attorney General's office as to what I should do in this

(97)

instance. And the Attorney General instructed me that I was to take no action until the person was either adjudged guilty or—that the very fact that a charge had been filed did not constitute reason for me to treat him in any manner other than any other employee.

Q. And that was an alleged charge of sodomy; is that correct?

A. That is correct.

Q. And is it correct that to your knowledge Mr. Caraveo later pled guilty to that charge?

A. I can't answer in the affirmative.

Q. Okay. I believe that memorandum—do you have that specifically in front of you, the one that you were referring to—

A. Yes.

Q. —states that she recommended that he be transferred until his guilt or innocence could be established, and relocated to a position that didn't require him to travel or to represent the TDCA in the public until the charge was settled one way or another; is that what you're referring to?

A. This is what I'm referring to.

Q. And that is, you think, an improper suggestion on her part?

(98)

A. I do not question her suggestion. My response to it is

that immediately upon being notified by this that I contacted the Attorney General's office and asked what I should do in this instance; I was informed by the Attorney General's office that unless his guilt were proven, that I should do nothing. And so I felt that my hands were tied to either—because it could be construed by this person that I had taken an improper action in curtailing his activities.

Q. Okay—

A. And I felt that I was following legal advice and I did not feel that I should question this advice.

Q. Now, was that the first time that you were aware of any problems with Mr. Caraveo?

A. Well, if I answer in the affirmative it would be—I think I would have to say that most of it was by word of mouth, and I don't think that it is possible to give testimony like that.

Q. Would you identify, if you can, this exhibit, please?

A. Yes. This is a letter from Mack Nealey dated August the 31, 1972, to me regarding Caraveo.

Q. Do you remember getting that memorandum?

A. I must have, because I referred it to Malone for

(99)

action.

Q. I'd like to mark this as Plaintiff's Exhibit 16. Reading from this, the memorandum is dated, from Mr. Nealey, August 31, 1972. That's while he was still Project Director and prior to the time that Ms. Burdine took over as Project Coordinator; is that right?

A. Correct.

Q. And he, himself, mentions five or ten different specific complaints against Mr. Caraveo, including that he sends controversial letters to agencies with blunt and investigative overtone; shows interest in hiring only staff members of the Mexican-American descent, spends a lot of time out of the office, reluctance to use a sign-out book, ignores suggestions to curb long-distance telephone calls, openly criticizes the Project Director, keeps himself isolated from the office, types much of his own correspondence instead of

using the clerk typist; and other examples. Now, your memo on top of that is dated October 1, 1972, to Mr. Malone in which you say, "Maybe the time has come when I need to take action on administrative details. Is it too late to take action on this memo from Nealey?" Did you take any action as a result—

(100)

A. I referred it to Malone for action.

Q. Okay. So, Mr. Malone was the proper person to deal with that in your—

A. In my opinion.

Q. Did he, in fact, deal with it?

A. I could not respond on that.

Q. Now, I believe, reading from earlier Plaintiff's Exhibit 2-F, which was dated December 13, 1972, which is the time that Ms. Burdine, when she was Project Coordinator, she points out specifically problems concerning Mr. Caraveo; is that correct?

A. (No response.)

Q. And that's directed to Mr. Malone.

A. Well, yes. She mentions two people.

Q. And do you know whether Mr. Malone took any action at all?

A. I couldn't answer in the affirmative.

Q. So, at least Ms. Burdine made Mr. Malone aware of the situation concerning Mr. Caraveo—

A. Correct.

Q. —and another employee. And any action would have been up to him to take; is that correct?

A. That is my interpretation.

Q. And not having been made Project Director, she, herself, didn't have the authority to take any

(101)

personnel action against Mr. Caraveo, did she?

A. No.

* * *

(105)

. . . Texas Department of Community Affairs.

A. Not necessarily.

Q. I believe the policy is that promotions of the—

THE COURT: Let's don't dwell on that. That absolutely accomplishes nothing. Issue in this case is the qualifications of this Plaintiff and what the facts were with reference to it on what happened.

MR. GILL: Okay.

Q. Did you receive the memorandum from the Plaintiff, the one dated February the 9th of 1973, to Mr. Malone, asking for a listing in job descriptions; did Mr. Malone ever refer that to you or did you ever see that?

A. I probably saw it but, you know, I don't—

Q. Do you know whether a listing was ever provided to her as requested; a listing of job vacancies?

A. No. I couldn't answer that.

Q. Okay. And this memorandum to you of March 20, 1973, did you ever respond to that that you can recall; that is, the one in which she would ask for any assistance you could give in locating employment if the project was not funded?

A. I interpreted this to mean one thing. According—And may I read from it?

Q. Yes.

* * *

(107)

. . . knowledge?

A. I couldn't answer that, sir. Generally, I've depended on modifications to the contracts, any contract modifications of the PSC project, to be the ultimate responsibility of Mr. Malone as long as he was acting in a capacity of supervision either as the Director, or Acting Director, over the PSC project. All modifications to contracts generally came through him for approval and submission to me.

Q. You knew that Ms. Burdine was in a supervisory capacity over Mr. Walz during this period, did you not?

A. Yes.

Q. Okay. You knew that she had more seniority in the

PSC program than he had?

A. Yes.

Q. And you knew that she had more job experience in this kind of a program than he had, did you not?

A. Well—

Q. Did you know that, too, that she had worked in that program and those kind—

A. She had worked in the program longer, she had seniority, but I do not consider this to be a criteria that is binding. Seniority was not binding, in my opinion, . . .

* * *

(109)

A. Not to my recollection.

Q. Was the job advertised for bid?

A. No.

Q. What person did you solicit names from to make the selections? You said you solicited names.

A. I consulted with my staff—top staff people.

Q. Specifically who, do you remember?

A. One would have been Malone, one would have been Captain Taylor, who was with OEO, and others that I can't recall at the time; but people who would have had long experience in this type of operation and I felt could contribute to the mandate from which we were operating.

Q. Did you personally interview Ms. Burdine for that job?

A. No, I don't know whether I did or not. I don't recall that I did.

Q. I just have a couple of more questions.

A. May I inject something here?

Q. Yes, go ahead.

A. I discussed on many occasions—talked on many occasions with Ms. Burdine, and certainly looked over her qualifications very carefully when she was considered for other employment.

Q. Okay. I believe on page 20 of the deposition, when

. . .

* * *

(116)

. . . been earlier than that, sir.

Q. All right. We've already, I think, established and identified these exhibits—Defendant's Exhibits A, B and C, which are in reference to the termination of the PSC project by DOL, a letter to Mr. Fuller, and that's Exhibit A, is from Coffman to Fuller—a letter stating that the project would be eliminated. Exhibit B is dated February 22nd of '73, from Mr. Fuller to Mr. Coffman, where he urges the continuation of the program. Defendant's Exhibit C, March 20th of '73 letter, from Mr. Johnson to Mr. Fuller, concerning the conditions under which the Department of Labor would possibly continue the program. So, we'll enter these exhibits at this time.

MR. GILL: No objection.

(Whereupon, Defendant's Exhibits A, B (and C were received in evidence.

Q. (By Mr. Allen) I'm not sure whether we have identified this one. This is Defendant's Exhibit D, Mr. Fuller. It's a letter—a copy of a letter from you to Mr. Charles Johnson. Would you identify that, please, sir.

A. This is a letter from me to Mr. Charles Johnson dated March the 26th of 1973: "Dear Mr. Johnson, . . .

* * *

* * * (121)

. . . of Mr. Walz. Ms. Giles has been an employee of PSC since its inception and is well qualified for the position. Her resumé is enclosed." Paragraph.

"There will be one (1) vacancy on the staff on May 1st of 1973, that of a Secretary II to replace Ms. Giles. This position will be filled as soon as the job can be advertised and interviews completed, hopefully not later than the first week in May. If additional information is needed please let me know.

Sincerely,
Robert M. Watts
Project Coordinator
Public Service Careers"

Q. That was Mr. Watts' report to DOL on changes or reorganization of personnel; is that correct, sir?

A. That is correct, sir.

MR. ALLEN: We will introduce this as Defendant's Exhibit F.

(Whereupon, Defendant's Exhibit F (was received into evidence.

Q. Mr. Fuller, I've handed you what we have designated as Defendant's Exhibit G, a letter from Mr. Johnson to Mr. Watts, dated May 15, 1973. Would you identify that, please, sir.

A. Defendant's Exhibit G is a letter to Mr. Robert M. Watts from Charles E. Johnson, reading as follows—

PLAINTIFF'S EXHIBIT II B

MEMORANDUM

TO: PSC Staff

FROM: Mack D. Nealy, Project Director

SUBJECT: Delegation of Authority and Responsibility

DATE: October 2, 1972

It has become increasingly time consuming for the normal flow of incoming and outgoing correspondence to reach its proper destination because of my attention to PSC business in the field. During my absence from the office, Joyce Burdine will receive my calls, mail, sign vouchers, represent me at PSC related meetings and tend to matters that will accelerate any response to PSC inquiries.

This authority is effective immediately upon receipt of this memorandum and will remain so until further notice. Also, this action supercedes any previous memorandum containing office delegation of responsibilities.

rsb

cc John Malone
Staff Services Officer

Jim Cates
Project Officer
Department of Labor

PLAINTIFF'S EXHIBIT II E

November 8, 1972

TO: PSC Staff

FROM: John R. Malone

SUBJECT: Delegation of Authority

Due to my time being much more occupied than had been anticipated in November, I have asked Joyce Burdine to coordinate all administrative matters in the PSC office while I am acting director. "Administrative matters" shall include all duties *but* approving travel, approving contracts and approving expenditures of funds. It may be necessary, due to being short a staff member, for her to realign some duty assignments so that adequate coverage will be available for all segments of the PSC operation.

All travel requests will be initiated by Mrs. Burdine prior to submission so that travel is coordinated within the office.

I shall do the following:

A. Approve Travel
B. Approve payments
C. Approve the obligation of any funds
D. Review contracts before they are forwarded to Mr. Fuller for execution
E. Make *all* contacts with Department of Labor in Dallas or Austin except those necessary to clarify reports

PLAINTIFF'S EXHIBIT II F

MEMORANDUM

TO: John R. Malone, Acting Project Director, Public Service Careers Project

FROM: Joyce Burdine, PSC Project Coordinator

SUBJECT: Activities Report on PSC Project as of November 8, 1972

DATE: December 13, 1972

1. Phase out Modification for PCO-602 has been completed and approved by Project Officer, Jim Cates.
   Staff responsible for Activity: Joyce Burdine
   Allen Walz

2. Proposals and budget preparation have been negotiated with 7 sub contracting agencies already in contract.
   Staff responsible for activity: Joyce Burdine
   Allen Walz

3. Contract negotiations have been completed with 1 new sub contracting agency, Texas Department of Corrections.
   Staff responsible for Activity: Joyce Burdine
   Allen Walz

4. Contract Modification for PCO-622 for 15 month extension and request for additional funds has been completed and will be reviewed by Jim Cates, Project Officer.
   Staff responsible for Activity: Joyce Burdine
   Allen Walz

5. PSC Project Report for Governor Smith's term in office has been completed and submitted.
   Staff responsible for Activity: Allen Walz

6. Annual PSC Project for Texas Department of Community Affairs has been completed & submitted.
   Staff responsible for Activity: Allen Walz

7. MA5-19 Monthly report has been completed & submitted to Regional Department of Labor Office.
   Staff responsible for Activity: Allen Walz

Weekly staff meetings have been held in an attempt to coordinate the activities of the PSC staff. The first staff meeting was held November 10, 1972, approximately 2 days following my appointment as Project Coordinator and was in session for 3½ hours.

It was specifically agreed by all staff members that the state PSC office was neither as productive nor as effective as it could be. It was also specifically agreed by all staff members that state personnel rules & regulations have not been followed. I made the following recommendations in an effort to correct this:

1. If it is necessary for employee to be out of the office for more than one hour, fill out a leave request using annual or sick leave.
2. All out of state telephone calls will be approved by Project Coordinator or Project Director.
3. All out going correspondence pertaining to PSC contract compliance or policy will be coordinated or approved by Project Coordinator and an information copy of same addressed to Project Coordinator prior to transmission.
4. Submit Weekly Activity reports from All PSC professional staff in order to coordinate our efforts & effectively evaluate activities in relation to program goals.

There were many objections to all of the above recommendations by the training staff, Marion Kirkland, Training Specialist, and Roberto Caraveo, Training Coordinator based on the premise that they are "professionals" and should not be subjected to such. Also, Mr. Caraveo stated at the time that he was "shocked" that I had been designated coordinator and I shouldn't "come on so heavy." Ms. Kirkland stated that she felt that it is "incongruous and

completely out of line" and asked, "how in the world were you selected?" I referred her to John Malone, Acting Project Director, who actively participated in designating me as Coordinator (see memo dated 11-8-72).

At the present time the activities of the state PSC staff members are not being coordinated, the office is not as productive as it should be and state personnel rules & regulations are still not being followed by Ms. Kirkland or Mr. Caraveo. I have received no documentation of training activities or other PSC related activities by either staff member after my original request stated in my first staff meeting as well as subsequent requests.

Mr. Caraveo was given a monitoring assignment at Prairie View A&M College and was out of the office for approximately 3 days last week for the purpose of accomplishing his assignment. I have on two occasions requested a written report on his monitoring activities. To date I have not received it.

Ms. Kirkland was also given a monitoring assignment. I was told that she later called the Project Director & refused the assignment as she was not hired to interview people, (See Attached job description for Training Specialist which is included in the contract PCO-622, reference last sentence). Then she was out of the office for 3½ days last week. Her reason was that her father had been in an automobile accident. Monday & Tuesday of this week she did not report for work due to bad weather. Thursday morning of this week she did not report to work. Her reason was that she had fallen and skinned her knee. She has not to date submitted a leave request for any of the time she was out of the office in the past two weeks. She attended a meeting on Revenue Sharing Wednesday morning although she was not given this assignment by Project Director or Coordinator. Her attitude is both hostile and uncooperative in all matters. Constantly, I find myself dealing with Ms. Kirkland and Mr. Caraveo on a personal level instead of a professional level. There have been numerous interrup-

tions of this nature in the past five weeks which has been a critical time in this office because of the two contract modifications that have been in progress. Also, the morale of the other staff members is very low because of such instance. I have received queries from the professional field staff as to "*What* does the state PSC Training Staff do?" I don't have an answer and based upon my stated facts it is easy to see why. The workload in the office has not been evenly distributed in the past five weeks and even though many accomplishments have been made under very trying circumstances it would have been extremely helpful to have had the cooperation and assistance from the training staff.

I feel that it is necessary to call this urgent matter to your attention for action in order to prevent further damage to the program.

JB:dg

PLAINTIFF'S EXHIBIT II S

B. R. Fuller, Executive Director

Joyce Burdine, PSC Project Coordinator

Employment Transfers for PSC Staff March 20, 1973

As Texas Dept. Community Affairs does not have a Personnel Office I am enclosing my resume and that of Allen J. Walz for your review and consideration.

According to John R. Malone, the Texas PSC Project will not be continued after March 31, 1973. I will appreciate any assistance you can give us in locating employment alternatives in TDCA.

Thank you for your consideration in the matter.

dg

Enclosure

PLAINTIFF'S EXHIBIT II T

March 20, 1973 Dallas, Texas 75202

Mr. B. P. Fuller, Executive Director
Public Service Careers Program
State of Texas
Executive Department
Austin, Texas 78711

Dear Mr. Fuller:

In accordance with your request to Mr. Coffman for reconsideration of our decision on your PSC contract, I have been asked, in my capacity of contracting officer, to reply for Mr. Coffman. As you are aware, we decided to review your performance under PSC contract PCO-622. As agreed our review was conducted on March 14–16, 1973. The review team was composed of Mr. W. R. Rowell, DARMA and Mr. Roberto Chapa, Project Officer. On their visit to Prairieview College, Texas Southern University and University of Houston they were accompanied by Mrs. Joyce Burdine of the PSC staff. While in Austin they worked with Mr. John Malone. As a result of that review we are extremely concerned over the following deficiencies that were identified:

1. Overstaffing
2. Lack of fiscal control
3. Lack of proper documentation of expenditures
4. Payments made on expired subcontracts
5. Subcontracts developed that are in violation of the General Provisions of your contract
6. Lack of a Project Director
7. Expenditure accruals not accurate
8. Enrollee certifications inadequate
9. MA 101's not complete
10. Eligibility of some enrollees questionable
11. Staff not familiar with disadvantaged criteria
12. Enrollees in program who shouldn't be in the program

13. Lack of communications in PSC staff
14. Lack of training of PSC staff
15. Questionable fiscal practices
16. Subcontractors' hiring of staff not identified on their subcontract
17. Excess funds in the program although reports indicate there are none

The above items are only a few of the deficiencies noted in our review. In that regard, these items and others were discussed with the members of your staff who participated in our review.

In light of the review team's findings, we have decided to extend your present contract until June 15, 1973, or until present funds are expended, whichever comes first, under the following conditions:

1. A Project Director with complete authority to administer the program, including fiscal, must be appointed NLT April 3, 1973.
2. A competent and qualified fiscal officer must be appointed NLT April 3, 1973.
3. There must be a complete reorganization of the PSC staff, including those in subcontracts NLT April 3, 1973. Such reorganization must meet with my approval.
4. A modification extending the contract as specified above must be signed NLT March 31, 1973.
5. Staff training is to be conducted by regional office staff on April 4–5, 1973.
6. Fiscal control must be instituted immediately under the direction of the Project Director.
7. Subcontracts are to be modified or new contracts developed as needed.

We will review your progress in correcting the identified deficiencies and make a decision on further extension of your contract NLT June 1, 1973. Your Project Officer has a complete list of all deficiencies noted and will work with you in instituting the ncessary corrective action.

Please advise me if there is any question regarding the above.

CHARLES E. JOHNSON
Contracting Officer

PLAINTIFF'S EXHIBIT XII

DEPARTMENT OF COMMUNITY AFFAIRS
Personnel Action Form

☐ New Hire

☒ Classification Change

☐ Termination

☐ Other _____

Effective Date May 1, 1972

Social Security # 452-48-5076

FROM

NAME	John Robert Malone
TITLE,	Staff Services Officer II
CLASS, STEP	Group 20, Step 2
SALARY	$1,259.00/mo.
PAYROLL NO.	

TO

NAME	John Robert Malone
TITLE,	Chief of Staff Services
CLASS, STEP	Group 21, Step 2, 1554
SALARY	$1,345.00/mo.
PAYROLL NO.	

JUSTIFICATION Increased responsibilities and work load.

RECOMMENDED _____ April 26, 1972
Supervisor — Date

APPROVED _____ _____
Director — Date

APPROVED /s/ _____ April 26, 1972
Executive Director — Date

SUBMIT IN DUPLICATE. This form must be received in Central Accounting by the *10th* of the month in which the action is effective.

PLAINTIFF'S EXHIBIT XIV

Resumé

Joyce Burdine

ADDRESS:	1101 B Arthur Stiles Rd., Austin, Texas 78721
TELEPHONE:	(512) 385-4213
DATE OF BIRTH:	May 30, 1936
PLACE OF BIRTH:	Hamilton, Texas
SEX:	Female
MARITAL STATUS:	Divorced
NUMBER OF CHILDREN:	2
EDUCATION:	High School, one year College at Texas Tech., Lubbock, Texas

SPECIALIZED TRAINING:
Certified Workshops and Inservice Training in the following areas: Task Analysis and Job Restructuring, Job Element Examining System, and Basic Management Techniques II, conducted by the United States Civil Service Commission. Completed Director Training Course for Pre School Centers, Four Seasons Nursing Centers, Oklahoma City, Oklahoma.

EMPLOYMENT EXPERIENCE

JOB DESIGN COORDINATOR July, 1972 to present
PROJECT COORDINATOR (as of November 8, 1972)
Texas Department of Community Affairs
Public Service Careers
P.O. Box 13166–Capitol Station
Austin, Texas 78711
B. R. Fuller, Executive Director (512) 475-2431

Duties: Responsible for coordinating all activities directly related to contractural agreements to employ, upgrade and train minorities certified as disadvantaged, educationally, vocationally and economically. Other duties are program and proposal development, program monitoring, designing appropriate job descriptions, task analysis and job restructuring and any related human resource

management services designed to remove barriers precluding potential workers with undeveloped skills. Responsible for supervising and coordinating program efforts with a staff of sixteen employees. Annual Salary: $11,232

DATA ANALYST — January, 1972–July, 1972
(with same project as above)

Duties: Responsible for program and contract development, proposal writing, monthly reports to Regional D.O.L. office, maintaining current enrollee records and reports for 413 enrollees in the Central Records Unit, providing technical assistance in records and reporting system for field staff. Annual Salary: $6,204

ACCOUNTING CLERK II — September, 1970–January, 1972

State Health Department
1100 West 49th Street
Austin, Texas 78756

Duties: Verify local expenditure reports. Post summarize & balance savings to Working Reserve Book, prepare work sheets for monthly reports, distribute operating budget, allocation, spread sheets, reports and budget revisions. Annual Salary: $5,088
Al Joe Hunt, Section Chief (512) 454-3781

DIRECTOR, FOUR SEASONS — April, 1970–July, 1970
Child Center (company filed bankruptcy)
Austin, Texas

Duties: Manage & Operate 200 capacity pre-school Child Center, supervise teaching and service staff of 20, develop in service training for staff, purchase materials, supplies & foodstuffs pertinent to operation of center, manage and be accountable for safety and well being of all the children enrolled in the center. Annual Salary: $7,200, plus travel allowance. Warren Osburn, Director (405) 321-6942

JOB DEVELOPER July, 1968–December, 1969
New Careers Program
Austin, Texas

Duties: Develop contracts and training positions, monitor for contract compliance, perform job analysis and restructuring, collect, analyze and develop occupational data, coordinate public relations campaign. Annual Salary: $7,920, plus travel allowance. Edward Hill, Director (512) 477-6561 Ext. 235

REFERENCES:

1. Harvey King
   Education Consultant
   Texas Education Agency
   201 E. 11th Street
   Austin, Texas 78702
2. Edward Hill
   President
   Metropolitan Mgmt. Company
   P.O. Box 40
   Austin, Texas 78717
3. Charles Graham
   Asst. Chief of Special Programs Office of Education, Information and Training
   Texas Dept. of Community Affairs
   P.O. Box 13166, Capitol Station
   Austin, Texas 78711

GOVERNMENT EXHIBIT XVI

MEMO
FROM
B. R. Fuller
Governor's Office
475-2837

10/1/72

Malone

maybe the time has come when I need to take action on administrative details.

is it too late to take action on this memo from Nealy?

BRF

TEXAS DEPARTMENT OF COMMUNITY AFFAIRS
MEMORANDUM

TO: B. R. Fuller, Executive Director
FROM: M. D. Nealy, PSC Project Director
DATE: August 31, 1972
SUBJECT: Roberto Caraveo

Mr. Caraveo entered into employment with Public Service Careers on February 7, 1972, as Training Coordinator. There is presently existing grave concern surrounding his performance within this capacity which is felt to be not in the best interest of our present and long range goals. Most are considered to be personal which adversely affects his performance and the general image of Public Service Careers.

Mr. Caraveo finds it extremely difficult to communicate his PSC activities with me and there are constant instances of subtle, blatant insubordination, and lack of conformity. Listed below are examples:

1. Reluctance to using sign-out book showing agencies contacted and nature of business. Openly verbalizes his opposition.
2. Ignored suggestion to curb long distance telephone calls in areas without PSC enrollees and out-of-state calls. Many calls were made to his hometown of McAllen.
3. Spends most of his time out of the office supposedly at the Blind Commission visiting Luis Larralde, PSC Human Resource Management Specialist.
4. Mr. Caraveo shows only an interest in hiring staff and enrollees of Mexican-American descent.
5. Sent controversial letters to agencies with blunt and investigative overtones.
6. Openly criticized me and others for hiring decisions made within the Department of Community Affairs.
7. Keeps office door closed to isolate himself from office staff.

8. Discusses internal PSC affairs with persons not connected with this office. Discussion is directed forward (sic) administrative decisions, PSC staff meetings, and correspondence received from within and from outside sources.
9. Types much of his own correspondence. We have one (1) secretary and one (1) clerk typist.
10. Conversation is practically nil when meeting and negotiating with agencies. Some of this may be due to speech impediment.

These are examples of problems which I feel should receive immediate attention. I have attempted to address Mr. Caraveo to these problems but unfortunately, to no avail. He is nearing his six (6) months of employment which will end his probationary period and I feel that serious consideration should be given to Mr. Caraveo's future employment with Public Service Careers. However, I hesitate to suggest remedies until I have had an opportunity to further discuss this matter with you and John Malone.

DEFENDANT'S EXHIBIT A

U.S. DEPARTMENT OF LABOR
MANPOWER ADMINISTRATION
Federal Building—U.S. Courthouse
1100 Commerce Street—7th Floor

February 9, 1973 Dallas, Texas 75202

Mr. B. R. Fuller
Executive Director
Texas Department of Community Affairs
P.O. Box 13166, Capitol Station
Austin, Texas 78711

Dear Mr. Fuller:

As you know, the President's budget message called for a reduced federal spending level. In order to be consistent with the President's economy program at the federal level, the Manpower Administration has examined expenditures to ensure that Manpower programs are operating in the most economical and efficient fashion.

Since the fund allotment for Manpower training in Texas for this fiscal year was reduced, we were instructed to phase out and eliminate those projects with a low participation rate.

An analysis of your project as of December 31, 1972, indicates that the participation rate in the entry component was 18% and 5% in the upgrade component.

In view of the above, the Texas Public Service Careers project was selected as one of the Manpower training projects to be phased out.

This will inform you that the Texas PSC will terminate March 31, 1973. Hopefully, this will give the staff time to close out the project and obtain other employment.

We regret that we must take this action. Please let us know if you have any questions concerning the matter.

Sincerely,

R. L. COFFMAN
Regional Manpower Administrator

DEFENDANT'S EXHIBIT C

U.S. DEPARTMENT OF LABOR
MANPOWER ADMINISTRATION
Federal Building—U. S. Courthouse
1100 Commerce Street—7th Floor

March 20, 1973 Dallas, Texas 75202

Mr. B. P. Fuller, Executive Director
Public Service Careers Program
State of Texas
Executive Department
Austin, Texas 78711

Dear Mr. Fuller:

In accordance with your request to Mr. Coffman for reconsideration of our decision on your PSC contract, I have been asked, in my capacity of contracting officer, to reply for Mr. Coffman. As you are aware, we decided to review your performance under PSC contract PCO-622. As agreed our review was conducted on March 14–16, 1973. The review team was composed of Mr. W. R. Rowell, DARMA and Mr. Roberto Chapa, Project Officer. On their visit to Prairieview College, Texas Southern University and University of Houston they were accompanied by Mrs. Joyce Burdine of the PSC staff. While in Austin they worked with Mr. John Malone. As a result of that review we are extremely concerned over the following deficiencies that were identified:

1. Overstaffing
2. Lack of fiscal control
3. Lack of proper documentation of expenditures
4. Payments made on expired subcontracts
5. Subcontracts developed that are in violation of the General Provisions of your contract
6. Lack of a Project Director
7. Expenditure accruals not accurate
8. Enrollee certifications inadequate

9. MA 101's not complete
10. Eligibility of some enrollees questionable
11. Staff not familiar with disadvantaged criteria
12. Enrollees in program who shouldn't be in the program
13. Lack of communications in PSC staff
14. Lack of training of PSC staff
15. Questionable fiscal practices
16. Subcontractors' hiring of staff not identified on their subcontract
17. Excess funds in the program although reports indicate there are none

The above items are only a few of the deficiencies noted in our review. In that regard, these items and others were discussed with the members of your staff who participated in our review.

In light of the review team's findings, we have decided to extend your present contract until June 15, 1973, or until present funds are expended, whichever comes first, under the following conditions:

1. A Project Director with complete authority to administer the program, including fiscal, must be appointed NLT April 3, 1973.
2. A competent and qualified fiscal officer must be appointed NLT April 3, 1973.
3. There must be a complete reorganization of the PSC staff, including those in subcontracts NLT April 3, 1973. Such reorganization must meet with my approval.
4. A modification extending the contract as specified above must be signed NLT March 31, 1973.
5. Staff training is to be conducted by regional office staff on April 4–5, 1973.
6. Fiscal control must be instituted immediately under the direction of the Project Director.
7. Subcontracts are to be modified or new contracts developed as needed.

We will review your progress in correcting the identified deficiencies and make a decision on further extension of your contract NLT June 1, 1973. Your Project Officer has a complete list of all deficiencies noted and will work with you in instituting the necessary corrective action.

Please advise me if there is any question regarding the above.

CHARLES E. JOHNSON
Contracting Officer

DEFENDANT'S EXHIBIT F

April 26, 1973

Mr. Charles E. Johnson, Contracting Officer
Manpower Administration
Federal Building—7th Floor
1100 Commerce Street
Dallas, Texas 75202

Dear Mr. Johnson:

The following personnel actions were completed as of April 1, 1973 and in which we ask your concurrence.

1. Allen Walz was promoted from Data Assistant to Project Coordinator for the University of Houston and the proposed subcontract with the State Department of Corrections. (Resume enclosed.)

2. Frank Estringel, Project Coordinator on the staff of the State Commission for the Blind, was transferred from the State Commission for the Blind to the Texas Department of Community Affairs (PSC) and will continue as the Project Coordinator for t! ıt subcontractor, but will be on the payroll of and housed in the central office of Public Service Careers. (Resume enclosed.)

3. Sallye Akin, Project Coordinator on the staff of the State Department of Public Welfare (DPW) was transferred from DPW to the Texas Department of Community Affairs (PSC) and will continue as the project coordinator for that subcontractor, but will be on the payroll of and housed in the central office of PSC. (Resume enclosed.)

4. Mrs. Gladys A. Maymi, Secretary to the Coordinator for the State Commission for the Blind was transferred to the Texas Department of Community Affairs (PSC). (Resume enclosed.)

5. Robert M. Watts, transferred from the Texas Office of Economic Opportunity, a Division of the Texas Depart-

ment of Community Affairs to the position of Project Director, Public Service Careers. Approval previously received from D.O.L.

The following personnel action was completed on April 23. Mr. Homer Hix, formerly with the CEP program in Waco, was hired as Fiscal Officer for PSC. (Resume enclosed.)

The following personnel action will be completed on May 1. Deloris Giles, a Secretary II, will be promoted to the Data Assistant position to fill the vacancy created by the promotion of Mr. Walz. Miss Giles has been an employee of PSC since its inception and is well qualified for the position. Her resume is enclosed.

There will be one (1) vacancy on the staff on May 1, 1973, that of a Secretary II to replace Miss Giles. This position will be filled as soon as the job can be advertised and interviews completed hopefully not later than the first week in May.

If additional information is needed, please let me know.

Sincerely,

Robert M. Watts
Project Director
Public Service Careers

RMW:gam
Enclosures–a/s
cc: Mr. Robert Chapa, Project Officer

RESUME

Name: Allen Joseph Walz

Address: 1920 Eastside
Austin, Texas

Date of Birth: July 29, 1949

Place of Birth: Melrose, Minnesota

Sex: Male

Marital Status: Married (no dependents)

Phone: Home—444-0689

Education:
St. Mary's Elementary
Grades 1–8
Melrose, Minnesota

Melrose High School
Graduate—1967, Extra curricular activities: School's plays, Distributive Education Clubs of America, Basketball, Football, Track, Letterman's Club.

Metropolitan State Junior College, Minneapolis, Minnesota. Date attended: 68–70. Graduate—1970 Associate Arts Degree.

Extra Curricular Activities: Distributive Education Clubs of America, Cooperative Education Program, Alternative Education Program, Basketball. Major subjects: Social Science, Business.

University of Minnesota, Minneapolis, Minnesota. Dates attended: 1971—1 plus years. Extra curricular activities: Internship Programs, Alternative Education Program, Basketball. Major subjects: Business, Social Science.

Employment Experience

Project Coordinator—April 1973—Texas Department of Community Affairs (Public Service Careers)—P.O. Box 13166—Capitol Station
Austin, Texas 78711
Robert M. Watts, Project Director (512) 475-4645
John Malone, Staff Services Officer (512) 475-4645

Duties: Responsible for coordination of all (human resources management, employment and training, counsel record keeping and reporting) PSC activities within at least one delegate agency. Responsible for training personnel within delegate agencies in proper procedures needed to obtain PSC services. Assisted in recruitment activities in delegate agencies. Responsible for proposal writing and contract development in new agencies.

Annual salary: $968.00 per month.

Data Analyst—July 1972–March 1973—promoted Texas Department of Community Affairs (Public Service Careers) —P.O. Box 13166—Capitol Station, Austin, Texas 78711.

Joyce Burdine—PSC, Project Coordinator (512) 476-5391 John M. Malone, Project Director/Staff Services Officer, (512) 475-5928.

Duties: Collect and compute data submitted by subcontracting agencies to determine enrollee's needs in the areas of training (academic or skilled), job coaching and supportive services. Complete monthly reports for Regional Manpower Office and the Department of Labor. Make regular on-site monitoring visit to the subcontracting agencies to provide technical assistance as needed. Assist project coordinator in proposal writing and contract development.

Salary: $590.00 per month.

Research Consultant—Oct. 1, 1971–Jan. 1, 1972 Minneapolis Urban Corps.

Duties: Collect, compute and analyze data on Alternative Education and unstructured educational programs throughout the United States. Data collected was used as input to the federally funded education project, Southeast alternatives.

Anita Suess—Education Supervisor—Minneapolis Urban Corps., 1603 Chicago Ave. So., Minneapolis, Minnesota.

Daniel Rooney—Teacher—325515 Ave. So., Minneapolis, Minnesota.

Data Records Specialist Assistant—Concentrated Employment Program, Model Cities—June 1971–October 1971.

Duties: Helped plan and initiate Central Records Unit in order to follow each enrollee as they progressed through the program. Aided the Information System Specialist in collecting and computing data for monthly federal forms. Assisted Resident Planner investigate specific problems area residents were having and explaining new avenues the Model Cities Project could provide them. Attended most of the Model Cities meetings to keep abreast of current problems.

Salary: $2.50 per hour.

Teaching Assistant—Bryant Jr. High School—Jan. 1971–June 1971, Minneapolis, Minnesota.

Assisted cooperative education teacher in an unstructured learning environment. Worked with students on an individual basis helping them design a curriculum which best suited their needs. Arranged meetings with city officials, manufacturing plants and any other organization that might interest a student as part of his learning environment. Investigated resources that would help students develop a meaningful and realistic learning experience. Conducted daily student group sessions to discuss new ideas or problems that were confronting them.

Salary: $2.50 per hour.

Joe Nathan—Teacher—St. Paul Open School, Minneapolis, Minnesota.

Kenneth Gilcrest—Teacher—Metropolitan State Junior College—50 Willow St., Minneapolis, Minnesota.

Assistant Manager and Part Owner—Necollet Shell Station, Minneapolis, Minnesota—Oct. 1969–Nov. 1970.

Duties: Train and familiarize station employees with the functions and operations of the station in the areas of retail management, merchandising, salesmanship and customer service. Responsible for daily transactions of the station and weekly reporting activities to Shell Oil Company.

Salary: $3.00 per hour—plus profits.

Fred Boyer—Manager—Nicollet Shell Station—4517 36½ Street, Minneapolis, Minnesota.

John Conelly—Dealer—Management Instructor—Shell Oil Company—6700 So. Cedar, Minneapolis, Minnesota.

Specialized Training: Shell Oil Company—Dealer Management Training Program, Minneapolis, Minnesota. Dates attended: August 1970–Sept. 1970. Major subjects: Sales, Salesmanship, Retail Management, Merchandising and Customer Service.

Community Organization Program: Completed a three (3) week Community Organizational Leadership Program designed by Saul O'Linski. Dates attended: August 1971

Public Service Careers Regional Workshop—Major subjects: Job restructuring, Job Analysis. Dates attended: Jan. 4, 1972

Seminars: Attended seminars on Revenue Sharing and a three (3) day workshop with the Equal Employment Opportunities Commission dealing with equal employment in state agencies.